

Jan 16, 2018

SEAN F. McAVOY, CLERK

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

NOEL A. SANTANTA; JOSE G.
SANTANA; ANA M. SANTANA;
JOSE B. SANTANA; MONICA
SANTANA; CARLOS D.
SANTANA; VICTOR E.
SANTANA; and KCS, a minor child,

Plaintiffs,

v.

CITY OF SUNNYSIDE, a
Washington municipal corporation;
SUNNYSIDE POLICE
DEPARTMENT; AL ESCALERA,
Sunnyside Chief of Police; C.
SPARKS, E. ROLLINGER, S.
LEMMON, S. BAILEY, O.
HERNANDEZ, and T. ORTH,
Sunnyside Law Officers, in their
representative capacity for
Defendants City of Sunnyside and
Sunnyside Police Department and
individually and on behalf of their
marital communities; and JOHN
DOES NOS. 1-30,

Defendants.

NO: 1:17-CV-3133-RMP

ORDER GRANTING
DEFENDANTS' MOTION TO
DISMISS

Before the Court is Defendants' Motion to Dismiss, ECF No. 19. The Court
has reviewed the pleadings and is fully advised in the matter. Defendants allege

ORDER GRANTING DEFENDANTS' MOTION TO DISMISS ~ 1

1 that Plaintiffs filed their complaint after the statute of limitations had expired and,
2 therefore, dismissal pursuant to Fed. R. Civ. P. 12(b)(6) is appropriate. ECF No.
3 19 at 2.

4 Defendants note that Plaintiffs' complaint was filed on August 4, 2017, but
5 the only dates Plaintiffs assert for Defendants' alleged wrongdoing occurred in
6 early August 2013. *Id.* Even though Plaintiffs allege that the wrongdoing
7 continued for several years, the only specific acts referred to in the complaint
8 occurred in 2013. *Id.* Defendants correctly argue that the relevant statute of
9 limitations in the State of Washington is three years for this type of alleged
10 misconduct. *Bagley v CMC Real Estate Corp.*, 923 F.2d 758, 760 (9th Cir. 1991)
11 (citing RCW 4.16.080(2)).

12 Pursuant to LR 7.1(b)(2)(B), Plaintiffs had 21 days to respond to
13 Defendants' Motion to Dismiss. Plaintiffs failed to respond within 21 days.
14 Defendants argue that "failure to comply with the requirements of LR 7.1(a) or (b)
15 may be deemed consent to the entry of an Order adverse to the party who violates
16 these rules." LR 7.1(d); ECF No. 20 at 2. Without any submissions from Plaintiffs
17 refuting Defendants' contentions and arguments, the Court finds that Plaintiffs
18 have failed to state a claim on which relief can be granted, because the relevant
19 statute of limitations had expired prior to the filing of their complaint. Therefore,
20 the Court dismisses the complaint without prejudice.

1 Accordingly, **IT IS HEREBY ORDERED:**

2 1. Defendants' Motion to Dismiss, **ECF No. 19**, is **GRANTED**.

3 2. All claims and causes of action alleged by Plaintiffs against Defendants
4 are **DISMISSED without PREJUDICE** and without costs to either party.

5 The District Court Clerk is directed to enter this Order, provide copies to
6 counsel, and **close this case**.

7 **DATED** January 16, 2018.

8
9 *s/ Rosanna Malouf Peterson*
10 ROSANNA MALOUF PETERSON
11 United States District Judge
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